

## REMARKS

### **A. INTRODUCTION**

Claim 1 and 63-76 are pending and rejected.

Upon entry of this Amendment:

- Claims 1 and 63-76 will be pending
- Claims 1, 68, 72, 75 and 76 will be amended without prejudice
- Claims 1, 75 and 76 will be the only independent claims

### **B. REQUEST FOR CONTINUED EXAMINATION**

This paper is being filed in response to a Final Office Action mailed May 24, 2010. A Request for Continued Examination (RCE), along with the appropriate fee, is being filed concurrently to ensure entry and consideration of these remarks.

### **C. REQUEST FOR TELEPHONE INTERVIEW**

Applicants request a Telephone Interview to discuss the claims as amended and the arguments presented in this Reply. The Examiner is requested to contact Applicants' representative to schedule a Telephone Interview at his earliest convenience.

### **D. CLAIM AMENDMENTS**

Without conceding the propriety of any asserted basis for rejection, Applicants have amended independent Claims 1, 75 and 76 in order to provide for desirable embodiments in which a customer may be offered an upsell (e.g., supplementary product), the offer may be accepted by the customer, and a credit account may be charged to a credit account of the customer, in addition a purchase price of a purchase. No new matter has been added.

New dependent Claims 63-74 provide for various embodiments and features described in the Specification. No new matter has been added.

### **E. SECTION 102(B) REJECTION / SECTION 103(A) REJECTIONS**

Claims 1, 63, 65-69 and 72-76 stand rejected under 35 U.S.C. 102(b) as being anticipated by Humble (U.S. Patent No. 4,825,045).

Applicants respectfully traverse the Examiner's Section 102(b) rejection.

Claim 64 stands rejected under 35 U.S.C. 103(a) as being obvious in light of Humble.

Claims 70 and 71 rejected under 35 U.S.C. 103(a) as being obvious in light of Humble and Deaton (U.S. Patent No. 5,621,812)

Applicants respectfully traverse the Examiner's Section 103(a) rejections.

Contrary to what is again asserted in the Office Action, Humble does not disclose *performing a comparison to establish whether a financial account may be adjusted an amount based at least in part on the adjustment value* at Column 3, lines 50-60. The cited portion is directed generally to summarizing the Humble method "for the checkout of products bearing sensible codes indicative and for the promotion of related products." Although the word "comparison" appears in the cited portion, the cited portion of Humble, however, does not disclose (explicitly, implicitly or inherently):

- a financial account,
- whether a financial account may be debited by an amount
- performing a comparison to establish whether a financial account may be adjusted an amount

The Office Action again does not articulate any explanation as to how the cited portion of Humble discloses the claimed feature. The cited portion describes determining whether a stored promotional message may be displayed; it does not disclose establishing whether a financial or credit account may be adjusted or charged.

Applicants further submit that Humble does not otherwise disclose the previously claimed feature of *performing a comparison to establish whether a financial account may be adjusted an amount based at least in part on the adjustment value*, as previously provided in Claims 1, 75 and 76, or *performing, by the central controller, a comparison to establish whether a credit account of the customer may be charged the upsell price*, as provided in Claims 1, 75 and 76 as amended.

Applicants further submit that Humble does not disclose the claimed feature of charging the upsell price to the credit account of the customer, the upsell price being in addition to the purchase price, as now recited in amended Claims 1, 75 and 76.

For at least these reasons, Applicants respectfully submit that the Office Action does not establish a *prima facie* case of anticipation of Claims 1, 75 or 76 (or any dependent claims) by Humble. Further, Applicants submit that Humble does not anticipate Claims 1, 75 or 76 because it fails to disclose all of the recited subject matter of Claims 1, 75 or 76, much less as claimed in combination.

Applicants respectfully submit that for at least the reasons set forth with respect to Humble, the Office Action fails to establish a prima facie case of obviousness for any of Claims 64, 70 or 71. In particular, Humble does not support all of the findings for which it is asserted.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the Section 102(b) and 103(a) rejections.

**F. ADDITIONAL COMMENTS**

Our silence with respect to the Examiner's other various assertions not explicitly addressed in this paper, including assertions of what the cited reference teaches or the Examiner's interpretation of claimed subject matter or the Specification, is not to be understood as agreement with the Examiner. As the Examiner has not established an unrefuttable prima facie case for rejecting Claim 1, for at least the reasons stated in this paper, we need not address all of the Examiner's assertions at this time. Also, the absence of arguments for patentability other than those presented in this paper should not be construed as either a disclaimer of such arguments or as an indication that such arguments are not believed to be meritorious.

**G. PETITION FOR EXTENSION OF TIME TO RESPOND & AUTHORIZATION TO CHARGE APPROPRIATE FEES**

Applicants understand that a two-month extension of time to respond to the Office Action is necessary.

Please grant a petition for any extension of time required to make this Response timely. Please also charge any other appropriate fees set forth in 37 C.F.R. §§ 1.16 – 1.18 for this paper and for any accompanying papers to:

Charge: \$490.00

Deposit Account: 50-0271

Order No.: 97-007-C1

Please credit any overpayment to the same account.

**H. CONCLUSION**

It is submitted that all of the claims are in condition for allowance. The Examiner's consideration is respectfully requested.

If the Examiner has any questions regarding this paper or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 438-6408 or via electronic mail at [mdowns@finchamdowns.com](mailto:mdowns@finchamdowns.com).

Respectfully submitted,

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